

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 4:16-CV-180-CDP  
 )  
 CITY OF FERGUSON, MISSOURI, )  
 )  
 Defendant. )

STATUS CONFERENCE

BEFORE THE HONORABLE CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

SEPTEMBER 19, 2017

**APPEARANCES:**

Monitoring Team           Natashia Tidwell, Esq.  
                                  **HOGAN LOVELLS US LLP**

For Plaintiff:            Jude J. Volek, Esq.  
                                  Amy Senier, Esq.  
                                  Sharon I. Brett, Esq.  
                                  **UNITED STATES DEPARTMENT OF JUSTICE**

For Defendant:           Aarnarian (Apollo) D. Carey, Esq.  
                                  **LEWIS RICE LLC**

REPORTED BY:            *Gayle D. Madden, CSR, RDR, CRR*  
                                  *Official Court Reporter*  
                                  *United States District Court*  
                                  *111 South Tenth Street, Third Floor*  
                                  *St. Louis, MO 63102                   (314) 244-7987*  
  
(Produced by computer-aided mechanical stenography.)

1 (Proceedings commenced at 1:03 p.m.)

2 THE COURT: All right. Good afternoon. We are here  
3 in the case of United States of America versus the City of  
4 Ferguson. This is Case No. 4:16-CV-180, and we are here for  
5 our quarterly status conference.

6 The United States is here through Mr. Volek, and  
7 let's see. Would you each introduce yourselves, Mr. Volek,  
8 starting with you and your team?

9 MR. VOLEK: Jude Volek for the United States.

10 THE COURT: All right.

11 MS. BRETT: Sharon Brett for the United States.

12 THE COURT: Ms. Brett.

13 MS. SENIER: Amy Senier for the United States.

14 THE COURT: Ms. Senier.

15 MS. SENIER: Yes.

16 THE COURT: And for the City of Ferguson?

17 MR. CAREY: Apollo Carey, City of Ferguson.

18 THE COURT: All right. And then I have here today on  
19 behalf of Monitoring Team Ms. Natasha Tidwell.

20 And before I hear the reports of the parties, I did  
21 want to state that I want to thank Clark Ervin for his service  
22 on the Monitoring Team and leading the Monitoring Team. He  
23 has requested to be relieved of his duties as the lead of the  
24 team, and so I appreciate Ms. Tidwell being here today to fill  
25 in for him, and I do want to, you know, thank him for the

1 service he has rendered in this case, and he will not be  
2 working on it anymore. And so for today at least, Ms. Tidwell  
3 will be reporting for the Monitoring Team.

4 We have a really good Monitoring Team in this case  
5 with many qualified people with different areas of expertise,  
6 and so I do not believe that this change will cause any delays  
7 or problems.

8 So I will hear from the parties. Mr. Volek or  
9 Mr. Carey, should you go first? Which one of you wishes to go  
10 first?

11 MR. CAREY: Plaintiff, Your Honor.

12 THE COURT: All right. The Plaintiff usually does.  
13 So, Mr. Volek, I'll hear from you.

14 MR. VOLEK: Thank you, Your Honor. We appreciate the  
15 Court holding these public hearings, and we also appreciate  
16 the members of the public who are in attendance today. We  
17 know that it's been a difficult time in the region over the  
18 last week, but we're grateful that this hearing is being held  
19 and that we have this opportunity to update you and the public  
20 on the status of the Consent Decree.

21 A year ago, in September 2016, we had our first  
22 status conference during which the parties and the Monitor  
23 updated the Court and the public on progress on the newly  
24 enacted Consent Decree. In the year since that first status  
25 conference, the City has worked in good faith to try and

1 implement the requirements of the Consent Decree, including by  
2 bringing on new personnel to take on that task. And the  
3 United States and the Monitoring Team have both tried to  
4 support the City's efforts by helping with policy development,  
5 the delivery of training, and other forms of technical  
6 assistance.

7           We're still very early on in this process, but  
8 because of the City's efforts, there are many ways in which  
9 police and court practices in Ferguson already do look  
10 different than they did a year ago. As we've noted at  
11 hearings in the past, progress in some areas has been  
12 particularly strong. Progress in other areas has not been as  
13 quick as anticipated. In some ways, this is by design. The  
14 parties have been mindful throughout this process that the  
15 decree can't be implemented at once, and so we've identified  
16 priority areas to focus upon. To be clear, however, it does  
17 remain the priority of the United States to ensure that each  
18 provision of the Consent Decree is fully implemented.

19           And so today at this hearing, rather than provide  
20 strictly an update on the events of the past three months,  
21 I'll quickly go through each section of the decree, including  
22 key areas of progress and the challenges that still need to be  
23 overcome. I'll begin, however, with the last section of the  
24 decree that covers monitoring. As that section of the decree  
25 makes clear, the Monitoring Team plays a really vital role in

1 this process by providing technical assistance to the City,  
2 assessing the City's efforts, and reporting those assessments  
3 out to the public. That credible oversight really is  
4 essential to meaningful reform.

5           And in this case, we're really fortunate to have an  
6 excellent Monitoring Team, which has been led by Clark Ervin.  
7 As Your Honor has just mentioned, after a year of committed  
8 work on the matter, Mr. Ervin has elected to step down, and  
9 the Department of Justice wants to express our appreciation of  
10 Mr. Ervin and the entire Squire Patton Boggs team for their  
11 service, which has really been indispensable in this initial  
12 phase of reform.

13           We're confident that even with Mr. Ervin's departure,  
14 the important work of the Monitoring Team will get done  
15 without delay. Monitoring Team member Natasha Tidwell has  
16 agreed to continue working on developing a strategic plan for  
17 monitoring the Consent Decree going forward, and she has  
18 already proved an invaluable part of this process. For  
19 instance, she designed and began to implement the court audit,  
20 the municipal court audit, which hopefully we'll hear about in  
21 some time.

22           Ms. Tidwell and other members of the team remain  
23 committed to this process, and as Your Honor mentioned, it  
24 really is a terrific team with a diverse range of subject  
25 matter experts, and we are confident that the team is in

1 strong shape as we turn a page and enter the next phase of  
2 this process.

3 I know that one of the Monitoring Team's priorities  
4 is issuing public reports on the status of implementation. We  
5 look forward to those detailed reports in the near future. In  
6 the meantime, we'll now provide our overview of the main areas  
7 of progress and the obstacles that we've encountered in each  
8 area of the decree. Now, there's 19 sections of the decree,  
9 and so our summary will have to be quite brief, but we are  
10 hopeful that this brief summary, as it is, is still helpful to  
11 the Court and to the public.

12 Starting with community policing and engagement, this  
13 is obviously a central part of the Consent Decree, and there's  
14 been real progress in developing both a community policing  
15 policy for within the Ferguson Police Department as well as a  
16 community outreach plan. Now, the policy sets forth  
17 principles of community engagement, and the outreach plan  
18 really gets at the specific steps FPD is going to take to  
19 ensure that community members are engaged. There's been a  
20 solicitation of initial feedback from community groups like  
21 the Neighborhood Policing Steering Committee, and that  
22 feedback solicitation will continue before these policies and  
23 plans go into full effect. In the meantime, I know that the  
24 City is working to foster better relationships between the  
25 police department and the Ferguson community, including by

1 creating better opportunities for police and community  
2 interactions. So I know that there's been a new "Coffee with  
3 a Cop" program that's been put in place that's been helpful at  
4 creating those opportunities for interaction.

5 This section of the decree also contains requirements  
6 regarding the Neighborhood Policing Steering Committee, which  
7 I've just mentioned. That committee has been formed, and  
8 there are many dedicated individuals who show up each month to  
9 try to advance the NPSC's mission. As we've learned from our  
10 own observations at NPSC meetings and as was made clear  
11 through public comments at the last hearing, there are  
12 organizational challenges within the NPSC. We're all aware of  
13 those. After the June status conference, we've tried to take  
14 additional steps to help the NPSC move forward to address  
15 those challenges.

16 Based upon reports from NPSC members, we identified a  
17 list of possible resources that could be provided to assist  
18 the NPSC with making the organization more efficient.  
19 Cost-free resources. At the July 20th NPSC meeting, we  
20 offered the NPSC two groups as options to conduct an  
21 assessment of the NPSC's needs and identify possible  
22 solutions. We also arranged for both of those entities to  
23 speak by phone with the NPSC Facilitation Committee in a  
24 subsequent meeting.

25 At its general meeting on August 17th, the NPSC

1 Facilitation Committee presented a list of possible  
2 consultants to assist the NPSC. It appears that the NPSC  
3 favors a more local consultant and not the options that we  
4 offered, and there are still some things to finalize with that  
5 plan, but we're hopeful that at this coming NPSC meeting on  
6 Thursday that that plan will be finalized. For our part, you  
7 know, the options we presented remain at the ready, and we're  
8 willing to help the NPSC however we can, including by helping  
9 any consultant that they elect to bring on board.

10           Throughout this time, members of the NPSC have also  
11 been contacting us to offer their comments about how to chart  
12 a productive path forward. In order to provide an opportunity  
13 for all members of the NPSC to provide that feedback, we've  
14 set up an online survey for current and former members of the  
15 committee to provide feedback. The survey asks for member  
16 insights about the committee's strengths and challenges and  
17 recommendations for how to move forward. We received comments  
18 from approximately 29 respondents, and once an external  
19 resource will be identified to provide assistance, we look  
20 forward to using the results from that survey to work  
21 collaboratively to address those challenges.

22           Turning to municipal code reform, not to be confused  
23 with municipal court reform, obviously, the Consent Decree  
24 contains two different sections. This section is really  
25 focused on the Ferguson Municipal Code, and I'm happy to

1 report that the City has really made significant progress  
2 here. There's a number of ordinances that are identified  
3 within the Consent Decree, most of which have been rescinded  
4 or amended as required by the decree.

5           There is one additional provision, which is the  
6 comprehensive review of the Ferguson Municipal Code. That  
7 provision requires the City to come up with a plan to assess  
8 the code and make sure that it's in line with community  
9 policing priorities and the priorities of the broader Ferguson  
10 community. The NPSC, I understand, has a committee that's  
11 working on that project and that the -- and I also understand  
12 that the City is working to support and participate in those  
13 efforts. So we look forward to continued work on that.

14           Turning to the policies and training section,  
15 obviously, every substantive section of the Consent Decree  
16 needs to be incorporated into official department policy, and  
17 we've been working very hard with the City on developing those  
18 policies, and there's been great progress, which I'll report  
19 as I go through each substantive section. In general, the  
20 process that we've developed has really been productive, and I  
21 think that we're in much better place than we were a year ago,  
22 and we've reported on that process in the past, but it's very  
23 collaborative in the initial stages, soliciting technical  
24 assistance from the Monitoring Team as appropriate, and then  
25 at the end of that process, the City submits the policy to the

1 Monitoring Team for review and approval.

2           On the training side of things, the Ferguson Police  
3 Department has designated a training coordinator, which is a  
4 positive step, and they've established a Training Committee,  
5 which consists of FPD members and members of the NPSC, and  
6 they've also verified that new recruits are receiving 900  
7 hours of basic training, which is excellent. Obviously, first  
8 come policies and then come training on those policies. So a  
9 lot of the progress in the training area still needs to come,  
10 but we are encouraged by the progress there.

11           The next section of the decree covers bias-free  
12 policing and court practices, and while the entire agreement  
13 is really designed to prevent bias from shaping law  
14 enforcement conduct, this section really looks at two specific  
15 things -- one, collecting data in order to ensure that bias is  
16 not infusing law enforcement practices and, two, bias-free  
17 training. As I'll discuss a bit later, data has been a  
18 continued challenge for the department, and that's going to be  
19 a real focus in this next coming year. The bias-free training  
20 is something that has already been delivered to the Civilian  
21 Review Board, and so that was a really good way to pilot that  
22 program. The reports from that training were very  
23 encouraging, and so in the coming year, we look forward to  
24 that training being delivered to the entire department.

25           Next is the stop, search, citation, and arrest

1 substantive provisions which set forth guidelines for how  
2 officers conduct those activities. We have -- the parties  
3 have not spent a lot of focus and attention on this area of  
4 the decree yet. We focused on some of the other priority  
5 areas, including force and accountability, but we look forward  
6 to turning to this as soon as the force policies are  
7 completed. There has been some progress. We've received a  
8 draft of the correctable citations policy. What that policy  
9 does is it sets forth a mechanism for people who have  
10 equipment violations, for instance, to fix the actual problem  
11 that led to the violation instead of incurring fines and fees  
12 because of that violation. There is some revision that's  
13 required, but we were encouraged to see that draft. There's  
14 also been some revision within the department on the practice  
15 of using what are called wanteds, which are basically  
16 investigatory holds. In earnest, the parties have not done  
17 much in this area, but this is the next area of priority.

18           Turning now to force, in June, we reported that we  
19 had worked with the City to draft a revised general order  
20 regarding lethal and less lethal force and that we were  
21 turning then to drafting policies regarding certain types of  
22 force. So there are policies for the use of batons, OC spray,  
23 tasers, K-9s. That process is well underway, and we've made  
24 really incredible progress thanks in large part to the Consent  
25 Decree coordinator within FPD, Commander Frank McCall.

1           The next step will be to solicit community feedback  
2 on those policies and make additional revisions, and we're  
3 working on a plan for this stage of the process to ensure that  
4 we can solicit community feedback in a productive way. There  
5 still needs to be development of policies regarding force  
6 reporting and force review. That's a very complicated area.  
7 There's a lot of different steps as a force report goes up  
8 through the chain of command, and so that's something that we  
9 continue to work on. Once those policies are put into place,  
10 at that point, we will focus our attention on ensuring  
11 officers are trained on those policies appropriately.

12           Turning to First Amendment protected activity, I know  
13 that this is an area of priority for Chief Moss, and he's done  
14 some very good work to ensure that officers respond to  
15 protected activity in a productive and lawful manner. There  
16 has not been any audit conducted yet of this area of the  
17 Consent Decree, and there still needs to be some policy  
18 development.

19           The next section is crisis intervention. FPD has  
20 designated a crisis intervention coordinator. Just to provide  
21 a little bit more context, what the crisis intervention  
22 coordinator does is ensure that there's a team that's readily  
23 available to respond to individuals in crisis, mental health  
24 crisis, and the fact that there's been a coordinator  
25 designated allows us to take the next steps required by that

1 area of the decree, including providing appropriate training  
2 and putting together those teams.

3 The School Resource Officer Program areas of the  
4 decree are really designed to rework Ferguson's existing  
5 School Resource Officer Program in order to turn it into an  
6 opportunity to bridge the divide between police and youth in  
7 Ferguson and to avoid unnecessary criminalization of students.  
8 The parties have made real progress on the first step, which  
9 is developing a Memorandum of Agreement between the Ferguson  
10 Police Department and the Ferguson-Florissant School District.  
11 That Memorandum of Agreement is in very good shape. The next  
12 step, once that's finalized and once that's worked out with  
13 the district, is coming up with an actual manual. The manual  
14 gets into a bit more detail about the actual activities that  
15 school resource officers are expected to take. We look  
16 forward to working with community stakeholders as we develop  
17 those items.

18 The next section is body-worn and in-car cameras.  
19 Obviously, body-worn cameras are an important tool in  
20 accountability. They're not the answer in their entirety, but  
21 they are extremely helpful. And, thankfully, through a grant,  
22 Ferguson has body-worn cameras at its disposal, and the  
23 parties have been working diligently to create an appropriate  
24 policy regarding those cameras. As the Court heard at the  
25 last hearing, there is also, separate and apart from the

1 Consent Decree process, a charter amendment regarding  
2 body-worn cameras, and we've worked diligently to try and make  
3 sure that, where there is no conflict, areas of that charter  
4 amendment are incorporated into Ferguson policy. That policy  
5 is in the same boat as the use-of-force policies. It's pretty  
6 far along, but we'd really like to solicit some community  
7 feedback before making those final steps.

8           The parties have also begun revising the in-car  
9 camera policy. So officers will wear body-worn cameras, and  
10 also, there will be dash cams for cars, and so the parties are  
11 working on that as well. Hopefully, that will be a little bit  
12 quicker than the body-worn camera policy. There's a lot of  
13 overlap on the issues in terms of retention issues, for  
14 example, and so we're hopeful that that process will proceed  
15 quickly.

16           With respect to supervision and performance  
17 evaluations and promotions, that has not been an area of focus  
18 for us. I know that the department, the police department,  
19 has been looking hard at staffing patterns. The Monitoring  
20 Team has as well. And I know that there are going to be  
21 efforts to look at supervision and staffing to ensure that  
22 there's appropriate close and effective supervision as  
23 required by the decree. More needs to be done by the parties  
24 in this area, but it's something that we look forward to  
25 working on in year two.

1           Officer assistance and support is a really critical  
2 element of the decree that ensures that officers and their  
3 families have the support that they need. Everybody knows how  
4 difficult a job law enforcement is, and so this area of the  
5 decree really just seeks to make sure that resources are  
6 available to people in the profession. And I know that Chief  
7 Moss has made this a priority, and that's been really, really  
8 prioritized throughout the whole department, and so we're  
9 encouraged by the steps that we've seen thus far. I think  
10 that that is, hopefully, something that we can audit in the  
11 coming year, that the Monitoring Team can audit to make sure  
12 that all the details are being executed appropriately.

13           The next section is recruitment. The Consent Decree  
14 acknowledges that Ferguson can only police constitutionally  
15 and effectively if they have highly qualified officers and a  
16 sufficient number of them to police in that way, and so  
17 there's been a lot of focus from the City, from the  
18 department, and from the Department of Justice on this issue.  
19 The City has finalized a recruitment plan, which has been  
20 submitted to the NPSC for comment, and the NPSC has reviewed  
21 it and provided very helpful input, and so the parties are  
22 working to incorporate their suggestions, and they'll report  
23 to the NPSC at the next meeting regarding what that revised  
24 policy looks like.

25           There is, separate and apart from the recruitment

1 plan, a Background Investigations Manual, and the City's  
2 finalized and DOJ and the Monitoring Team have approved that  
3 manual, and Ferguson has begun using that new Background  
4 Investigations Manual as a part of the hiring process, and so  
5 we're really encouraged by that. Obviously, it's critically  
6 important that every officer who joins the force in Ferguson  
7 is highly qualified and a suitable candidate for the job.

8 Part of the recruitment effort to ensure highly  
9 qualified officers is ensuring that Ferguson offers salaries  
10 that are competitive, and the City has taken really productive  
11 steps on that front. There has already been planning for an  
12 increase in pay for officers that was discussed at the last  
13 hearing. There needs to be a more comprehensive plan, of  
14 course, but we've done a lot of work on that front. The City  
15 has done a lot of work on that, and we're really in a -- we  
16 think that we're in a very good place on that.

17 The next section of the agreement is supplemental  
18 recruit and in-service training. Now, there was a training  
19 section before, policies and training section. That just sort  
20 of dealt with the general policy and training requirements.  
21 This section goes into the specific requirements for each  
22 substantive area, so the specific requirements for  
23 use-of-force training, for bias-free training, for instance.  
24 As I mentioned earlier, obviously, the first step is to come  
25 up with policies and then train on those newly revised

1 policies, and so there's not been that much progress on this  
2 area, but that's to be expected. That's how this process was  
3 planned.

4 I do want to highlight one aspect of this, though,  
5 that's been really productive, and that is the Blue Courage  
6 training that was provided to officers in June. The Office of  
7 Justice Programs provided Blue Courage training to the  
8 department free of charge. It's a -- the Office of Justice  
9 Programs is a component of the Department of Justice. And the  
10 reports from that training have been really incredible.  
11 Officers seem to have really loved the training, felt that it  
12 really addressed a lot of their concerns and also was a great  
13 experience for them, and so I think that's going to really  
14 help the department moving forward. And we will continue to  
15 identify any training opportunities or training resources that  
16 we can provide to the department.

17 Next is municipal court reform. There has really  
18 been a lot of focus on this area and really been a lot of  
19 progress as well. So the Ferguson Municipal Court is no  
20 longer under the Finance Director's domain, and it's no longer  
21 under the Chief of Police. The Ferguson Municipal Court  
22 reports directly to the City Manager. And, of course, the  
23 judge reports directly through the judicial chain in Missouri  
24 courts. There is a new judge that's been appointed, Judge  
25 Brown, who has really brought a fresh sensibility to the court

1 that we've witnessed firsthand has been met very positively  
2 from members of the community. There's also a new City  
3 Prosecutor who has done a very good job from our estimation so  
4 far.

5 THE COURT: Tell me the name of the new City  
6 Prosecutor. I think I asked you that before, but I forgot.

7 MR. VOLEK: It's Lee Goodman, Your Honor.

8 THE COURT: All right. Thank you.

9 MR. VOLEK: So together, the new judge, the new  
10 prosecutor, and court staff have really made a lot of key  
11 advancements. There's been good progress on ensuring  
12 ability-to-pay determinations are provided and that community  
13 service options are available. There has been movement on the  
14 online payment system, making sure that people have multiple  
15 ways of paying their fines. There's been some revisions made  
16 to procedures for missed appearances and bond, and there's  
17 overall an effort to provide greater transparency. As we  
18 highlighted at the last hearing, there's still a real need, I  
19 think, to work on the City's website. The City acknowledges  
20 that, and I know that they're thinking of how to really  
21 address that wholesale.

22 I should say, of course, that in talking through each  
23 of these sections, this is our vision or our view of where  
24 things are at. Ultimately, it is the Monitor's responsibility  
25 to assess compliance, and so while we're providing this update

1 to the Court, the Monitor's assessment is really what matters,  
2 and I'm -- I'm very happy to report that the first audit of  
3 the municipal court provisions by the Monitoring Team is  
4 underway. Ms. Tidwell was instrumental in developing a  
5 methodology for that, for that audit, and we -- through that,  
6 Ms. Tidwell has reviewed documents, observed court hearings,  
7 and the audit will really help identify which reform areas are  
8 working and which still need significant attention.

9           The next step in this section of the decree is really  
10 to focus on the amnesty provisions. The amnesty provisions  
11 are designed to provide some relief to people with older  
12 cases. There have been a lot of great efforts from the City  
13 on this already. There have been literally thousands of cases  
14 that have been dismissed. Nonetheless, there are still older  
15 cases from before January 1st, 2014, that fall under the  
16 amnesty provisions of the Consent Decree, and there needs to  
17 be a comprehensive approach to addressing those cases and  
18 ensuring that those cases are handled as the Consent Decree  
19 envisions. The City Prosecutor, Lee Goodman, has worked to  
20 develop sort of a framework for how to review those cases, but  
21 that review still needs to happen, and it's one of the more  
22 pressing issues that still needs attention.

23           The next section of the decree is accountability, and  
24 what this section acknowledges implicitly is that, you know,  
25 we all want a perfect police department but we all realize

1 that that isn't going to happen, and so the purpose of the  
2 decree is to minimize misconduct but also to ensure that  
3 misconduct is identified and properly dealt with when it does  
4 occur. There have been -- there's been a lot of progress in  
5 this area. So the first policies that the parties focused on  
6 was the duty-of-candor policy and the  
7 duty-to-report-misconduct policy, and those policies are in  
8 place. There's an overall internal investigations policy that  
9 the parties have reached agreement on, and we've recently  
10 solicited and received very helpful feedback from the Civilian  
11 Review Board. So we're going to work on incorporating that.

12           One outstanding issue is making sure that the  
13 department has awareness of previous accountability  
14 investigations. The department obviously needs to understand  
15 the actions of its officers and to ensure appropriate  
16 recordkeeping for misconduct investigations going forward, and  
17 so that's something that we will work with the department on  
18 collaboratively in the very near future.

19           The next section is civilian oversight. This has  
20 been talked about at previous hearings and is a real -- a real  
21 asset to the Consent Decree process thus far. Getting the  
22 Civilian Review Board in place, there was a lot of work that  
23 went into that from the City, and we really commend them for  
24 their efforts there. They've drafted a Civilian Review Board  
25 ordinance that establishes the board that's consistent with

1 the decree. The board was formed, and Mr. Carey is in the  
2 process of ensuring that the board is fully trained. And so  
3 just returning to the accountability policy, we've tried to  
4 make sure that the Civilian Review Board is properly looped  
5 into the accountability process, and so at this stage, we're  
6 really ready for the civilian oversight board to take on its  
7 responsibilities and start executing those.

8 The last section of the decree, substantive section,  
9 pertains to data collection, reporting, and transparency, and  
10 this -- admittedly, I think everybody's on the same page that  
11 this has been a bit of a struggle. Every single system that  
12 law enforcement agencies use has its complexities. There has  
13 been some recent efforts to bring in another system to bolster  
14 the existing system within Ferguson, and we're hopeful that  
15 there will be better integration and progress in the coming  
16 year, but that's an area of the decree that needs our  
17 collective attention.

18 So I know that was a bit of a whirlwind, and I  
19 apologize for that, but we did want to update the Court and  
20 the public on -- sort of give a snapshot of where each section  
21 of the decree was. We really look forward to the year ahead  
22 and anticipate an even more positive report in September 2018,  
23 and we look forward to working collaboratively with the City,  
24 the police department, and Ms. Tidwell and the rest of the  
25 Monitoring Team.

1 THE COURT: All right. Thank you.

2 Mr. Carey, I'll hear from you on behalf of the City.

3 MR. CAREY: Thank you, Your Honor.

4 Again, as you know, I'm Apollo Carey, here on behalf  
5 of the City of Ferguson, and as I always do, I just kind of  
6 want to start off by introducing some of the folks --

7 THE COURT: I would appreciate that. Thank you.

8 MR. CAREY: -- from the City that we do have in the  
9 audience. You'll see to my left Commander McCall, who is our  
10 Consent Decree Coordinator. And you'll see in the middle  
11 there is De'Carlton Seewood, who is the City Manager. And of  
12 course, the esteemed Chief Moss, Delrish Moss, who is our new  
13 Police Chief. And then behind those folks, in the second row,  
14 you'll see two of our councilwomen, Laverne Mitchom and Ella  
15 Jones, who are here from the City. As you know, every time we  
16 have these, we have a big contingent from the City who comes,  
17 and they're interested in, you know, our progress.

18 THE COURT: I do appreciate that both from the  
19 officials and also from the people on the elected council or  
20 aldermen. I think that's very important that they do continue  
21 to come, and it shows how interested you are in seeing these  
22 reforms go through.

23 MR. CAREY: Right. And we appreciate that, Your  
24 Honor.

25 And also just so that, you know, if the Court ever

1 wants to know what the actual day-to-day face of implementing  
2 the Consent Decree looks like --

3 THE COURT: They're sitting there on the front row.  
4 Yeah.

5 MR. CAREY: -- myself and the front row.

6 THE COURT: Yeah.

7 MR. CAREY: And that's that day-to-day face --

8 THE COURT: Yeah.

9 MR. CAREY: -- in terms of the City's part of  
10 implementing the Consent Decree and working with the  
11 Department of Justice and the Monitor. So we're all dedicated  
12 to that process.

13 So the approach that I'll take here today will not be  
14 as global and comprehensive as Mr. Volek. I think he did a  
15 great job of presenting a snapshot in terms of where we are  
16 globally, but what I'd like to address is kind of, you know,  
17 the actual -- some of the nuts and bolts of the work that the  
18 City has done since our last status hearing, and that work  
19 revolves mainly around municipal court reform as I announced  
20 and also as the Monitor announced in our last status hearing.

21 You know, the City of Ferguson had its first audit  
22 process under the Consent Decree in August of this year, and  
23 so that process entailed a number of provisions of the Consent  
24 Decree that were looked at and examined by the Monitoring  
25 Team. Now, we have yet to receive the results of that audit

1 from our Monitoring Team. I know they're hard at work, you  
2 know, looking at and analyzing the materials that they've  
3 gathered and basically organizing a presentation that they're  
4 going to put together for us to kind of let the City know  
5 where we are with regard to compliance, but I did want to just  
6 kind of let you know, let the Court know and let the public  
7 know some of the nuts and bolts work that kind of went into  
8 the City's preparation for this audit because that's been our  
9 focus, like I said, since our last status hearing.

10 One of the main provisions that we dealt with with  
11 regard to the court audit, the municipal court audit, was  
12 paragraph 333 of the Consent Decree, which talks about  
13 citation revisions. All right. One of the criticisms we had  
14 in the Department of Justice report was that, you know, our  
15 citations were not -- they weren't updated; they didn't have  
16 the proper information that the citizens needed when they were  
17 receiving municipal citations or traffic tickets for, you  
18 know, who do they call, where do they call, how do they pay,  
19 can they make partial payments, this type of thing. So what  
20 we did as part of the Consent Decree implementation process  
21 related to this audit -- we simply updated our citation, and  
22 we put all that information on the back of our citation. So  
23 now every citation that our police officers or municipal  
24 officials give out will have on the back the information  
25 needed, you know, to give to folks who receive these citations

1 of where to call, you know, where to pay, how to pay, those  
2 types of things, and I think that goes to some of the themes  
3 in the Consent Decree about adequate notice and just giving,  
4 you know, citizens as much notice as possible about how to  
5 resolve some of these municipal complaints because I know that  
6 was a theme that the City was criticized for in the report.

7 THE COURT: And is that also on the City's website?

8 MR. CAREY: It is, yes, ma'am. Yes, ma'am. And a  
9 number of the -- well, actually, everything I'm going to talk  
10 about today with regard to what we did for purposes of the  
11 audit has been updated and placed on the website. Now, I will  
12 admit Mr. Volek did say that, you know, our website still is  
13 not the most user-friendly website, and we certainly can use  
14 some work in terms of making it more user-friendly, but with  
15 regard to our obligation under the Consent Decree to post  
16 these things on the website, we've done so with regard to what  
17 it is I'm talking about here today.

18 Another paragraph in the Consent Decree, paragraph  
19 353, deals with trial procedures, and essentially what the  
20 Consent Decree required from the City was to make sure that we  
21 had trial procedures that treated our citizens fairly and  
22 impartially, and I think there are two kind of themes with  
23 regard to that. One was the independence of the City  
24 Prosecutor, and the other was the impartiality of the  
25 Municipal Judge. Well, as Mr. Volek did say, we've hired, you

1 know, Judge Brown, we've hired Prosecutor Lee Goodman, and  
2 we've implemented these trial procedures designed to make sure  
3 that Prosecutor Goodman is independent from the City and also  
4 from the Court and that, you know, Judge Brown is adjudicating  
5 cases in a fair and impartial manner, not leaning one way  
6 towards the prosecutor or towards the citizens. He's just  
7 simply following the law, and we think we've taken great  
8 strides in doing so by creating this policy or -- excuse me --  
9 the trial procedures.

10 Paragraph 334 of the Consent Decree required the City  
11 to come up with a methodology for auditing citations.  
12 Essentially, what it was designed to remedy was citations that  
13 got to the court that were incomplete, didn't have the correct  
14 municipal code violation, or wasn't, you know, signed  
15 properly, didn't have, you know, the right information that  
16 was needed for the Court to actually process them. So we came  
17 up with, basically, a policy that -- you know, what it does is  
18 it basically kicks those back down to the police department  
19 for further processing and then comes back up to the court,  
20 and so we had to put that policy in writing, and that was also  
21 part of the audit, the municipal court audit.

22 Paragraph 341 deals with the uniform fine schedule,  
23 and this was pretty much -- this was a simple one, Your Honor.  
24 We have -- you know, St. Louis County has a uniform fine  
25 schedule for municipal codes violations, and essentially, the

1 City of Ferguson adopted -- the court issued an order  
2 basically adopting the uniform fine schedule. So you don't  
3 have in Ferguson fines on the uniform fine schedule that are  
4 any different than any other municipality in St. Louis County.  
5 It's the same fine schedule for all municipalities, and  
6 Ferguson follows that fine schedule.

7 The court operating rule. Now, the court operating  
8 rule actually deals with several paragraphs in the Consent  
9 Decree, but recently, there was a court operating rule that  
10 the state courts kind of passed down, and all of the various  
11 different state courts were made to adopt this court operating  
12 rule, and it dealt with basically removing the obstacles to  
13 municipal court resolution. This operating rule deals with  
14 various different aspects of the municipal court process,  
15 notification to folks who receive municipal citations. It  
16 deals with, you know, requesting continuances, making those  
17 more easy for folks to obtain. So, really, the court  
18 operating rule was designed to remove barriers and obstacles  
19 to municipal court issue resolution. And I mean I think  
20 that's really consistent with, you know, what the whole -- one  
21 of the themes of the Consent Decree. And so we've taken steps  
22 and submitted that operating rule to the Monitor for feedback.

23 Again, we did update the website. Some of the  
24 updates to the website outside of the ones we've already  
25 talked about -- we put our community service and pay option

1 plans up on the website. So, you know, when someone receives  
2 a citation, they can go to our website and find the community  
3 service option. They can also find the other pay options.  
4 Then there's also a link that links directly to the payment  
5 system whereby payment can be made online. And also partial  
6 payment can be made online. That was a -- a thing.

7 THE COURT: That was a big deal in the Consent Decree  
8 as I recall it. Yeah.

9 MR. CAREY: That's right. Absolutely. So we've done  
10 that.

11 The ability to pay or our -- the ability to pay, our  
12 indigency form -- we have placed that also online, and so now,  
13 you know, folks who may doubt their ability to pay municipal  
14 fines can go to our website, download that form, and fill that  
15 form out and provide that to the court and have the court make  
16 a determination as to their ability to actually pay, and then  
17 obviously, you know, if the court does make a determination of  
18 indigency or that someone doesn't have the ability to pay,  
19 then, you know, we have the option for community service.

20 I mentioned our online payment system had been  
21 revised and also mentioned that we accept partial payment.

22 One of the other, I think, important parts of the  
23 municipal court audit was the City was required to develop  
24 good-cause criteria, and this is related to kind of the  
25 backlog of cases that Mr. Volek referenced, our pre-January 1,

1 2014 cases that are, you know, still kind of in the hopper, so  
2 to speak. The City is required under the Consent Decree to go  
3 through those cases and apply this good-cause standard to,  
4 basically, determine whether or not there's good cause to  
5 continue prosecuting these cases, and if these cases -- if  
6 there is not good cause to continue prosecuting these cases,  
7 then the City is required to dismiss them.

8 You may have, in the news, recently heard about the  
9 Fred Watson --

10 THE COURT: Yep, it was in the news.

11 MR. CAREY: -- yeah, dismissal and that type of  
12 thing. Well, those charges were dismissed pursuant to the  
13 City's requirements under the Consent Decree.

14 And so, you know, it simply -- it causes our  
15 prosecutor to have to basically go through -- now, there are  
16 challenges with that because we do have a backlog of --  
17 although we've gone through thousands of cases, we have a  
18 backlog of thousands of cases, and so --

19 THE COURT: And are these still just -- as I recall  
20 from prior hearings being told, they're just really in boxes  
21 somewhere; right? Some of them?

22 MR. CAREY: More or less, Your Honor. More or less.  
23 There are just -- there are just so many of them, and so we've  
24 been charged with developing a process by which and a  
25 framework by which to get through those, but of course, we

1 have one prosecutor, and we -- you know, so we -- the City has  
2 to come up with some sort of alternative way of doing so. I  
3 can tell you that we have discussed adding manpower to our  
4 prosecutorial team to potentially have someone that  
5 exclusively focuses on that backlog of cases and applying that  
6 good-cause standard to those cases to kind of speed up the  
7 process of going through those cases, but the Department of  
8 Justice is right, you know, that we do need to take some steps  
9 to -- to actually implement the standard that we've developed,  
10 and it is rather pressing for us, for us to do so.

11 I did mention requesting continuances, but I'll  
12 mention it again. Again, this is all about removing the  
13 barriers to folks being able to request those continuances,  
14 and we've developed a new policy and placed that online and  
15 also placed that information on the back of the citation,  
16 which allows folks to understand what they need to do if they  
17 need to request a continuance, how to do so, and we've made it  
18 a little bit easier for you to do so. You don't actually have  
19 to show up in court to request the continuance.

20 So from, you know, a municipal court audit  
21 standpoint, the City has developed all these policies,  
22 implemented all of these various different requirements, and  
23 where we are is we're just waiting for the Monitoring Team to  
24 respond to those and say, you know, either, "Yes, City, you  
25 did this right" or, you know, "You need to do this

1 differently" or that type of thing.

2           So that's kind of been the focus of the City's  
3 efforts over the last couple months. However, you know, the  
4 Consent Decree is vast. So that's not the only thing we have  
5 been doing. I won't get into a lot of the policy development  
6 and that type of thing that Mr. Volek so aptly covered  
7 already, but I will say -- I do want to mention a couple  
8 things that we have been working on.

9           I know at our last status hearing there was some  
10 citizen comment, and one of the comments was about the  
11 importance of our SRO Program. That's the School Resource  
12 Officer Program, and, you know, basically, the citizens were  
13 concerned about us focusing some attention on that program.  
14 Well, recently, in the last week or so, to be quite frank with  
15 you, the City and the Department of Justice have worked  
16 together in moving that Memorandum of Understanding between  
17 the City and the School District along. We've received  
18 recently and approved comments from the Department of Justice  
19 with regard to our draft MOU, and we expect in the next couple  
20 of weeks or maybe in the next week to be able to provide that  
21 MOU to the School District for their feedback. So we have  
22 made some progress on that, and I just wanted to make sure we  
23 addressed that because that was something specific that was  
24 mentioned in the last hearing.

25           Mr. Volek mentioned staffing and recruitment and

1 background investigations. I know I can tell you that Chief  
2 Moss has been tirelessly working over the last -- you know,  
3 since he's been here actually -- to, you know, get good  
4 officers, hire good officers within the Ferguson Police  
5 Department. Obviously, I know you know --

6 THE COURT: What's the status of the pay raise?

7 MR. CAREY: Well, the pay raise -- well, was it a six  
8 percent?

9 CHIEF MOSS: Seven percent.

10 MR. CAREY: Seven percent across the board is what we  
11 did, and that was just part of our --

12 THE COURT: And has that been implemented then?

13 MR. CAREY: It has, yes, ma'am.

14 THE COURT: Yeah. Okay.

15 MR. CAREY: And that was -- you know, obviously, you  
16 know, that does -- the City has taken great strides in terms  
17 of, you know, compliance with the Consent Decree, but we do  
18 need more of an overall plan, but, you know, the Prop P funds  
19 helped with that, you know, and our ability to be able to give  
20 those raises, and we are in the process of developing, you  
21 know, more of a comprehensive plan that will get us up to that  
22 average marker that we -- that the parties have decided is  
23 where we think salaries should be, and it may be something we  
24 have to do in steps, and the Department of Justice has shown  
25 willingness to work with us in that regard.

1 THE COURT: Okay. Thank you.

2 MR. CAREY: But, you know, kind of back to the point  
3 I was trying to make about the hiring is, you know, we -- when  
4 I first started as City Attorney, I think we were 37, 36, 37  
5 police officers.

6 Chief Moss, how many do we have now?

7 CHIEF MOSS: We're at 42.

8 MR. CAREY: Forty-two. And so, you know, we've gone  
9 from, you know, 36, 37 to 42 within the last year or so, and I  
10 may be underestimating that, the bottom number there, but I  
11 know that the hiring process has just been so -- has been a  
12 source of controversy within the City because, you know, we  
13 have our citizens who are wanting more police officers on the  
14 street, and, you know, we have our council meetings, and they  
15 come forth, and they voice their opinion about that, but then  
16 we also have the requirements under the Consent Decree that  
17 make sure we hire the right people and that make sure we do  
18 investigate their backgrounds and make sure that we do take  
19 the steps necessary to make sure that we're getting quality  
20 police officers and not just putting bodies in uniforms and  
21 putting them out on the street. So I'm just -- I'm really,  
22 actually, very proud of us for the -- and specifically Chief  
23 Moss -- for the work he's put in in moving our department in  
24 the direction of -- of, you know, hiring more officers.

25 And what's the capacity? What's the goal, Chief

1 Moss, with regard to -- 50. So if the goal is 50 and we're at  
2 42, you know, I think we're moving in the right direction.

3 The last thing I'll mention, Your Honor, is -- and  
4 Mr. Volek did touch on this, but, you know, it's something  
5 that I have been spending a lot of time on in the last six  
6 months -- is the Civilian Review Board, and I'm happy to  
7 report that, you know, they are -- we aren't in a situation  
8 where -- where -- well, let me say this. They have been fully  
9 trained with regard to the requirements of the Consent Decree,  
10 and so they are --

11 THE COURT: They received all that anti-bias  
12 training --

13 MR. CAREY: Yes, ma'am.

14 THE COURT: -- as well as other training; right?

15 MR. CAREY: Yes, ma'am. They've received all of  
16 that, and so they are actually ready Consent Decree-wise to  
17 actually start hearing complaints as they actually are filed  
18 and come in.

19 Now, I will say training is much more of a  
20 comprehensive, ongoing thing, and it has to be, and so we have  
21 to develop a system to make sure that not only are they  
22 getting the training that's required by the Consent Decree but  
23 that they get a much broader scope of training. And we're  
24 using resources such as NACOLE, which is a national law  
25 enforcement civilian oversight organization, and those folks

1 have been really helpful and really generous with their time  
2 and resources to, you know, provide the City guidance,  
3 direction, templates, ideas for additional training, and it's  
4 really crucial and critical because, as you know, our Civilian  
5 Review Board -- some of them will -- you know, some of them  
6 will cycle off of the board.

7 THE COURT: Right.

8 MR. CAREY: And so then we'll have new people come on  
9 who will need to be trained. So it's critical that we develop  
10 that process, and we've -- you know, by completing training  
11 for this inaugural board, we have kind of a template now that  
12 we can work with that will help us continue to develop and  
13 continue to meet the needs of the board as people cycle off  
14 the board and that type of thing.

15 So with that, you know, I think that pretty much  
16 concludes my portion of the presentation unless you had any  
17 questions for the City.

18 THE COURT: I don't believe I have any additional  
19 ones. I mean -- oh, I guess the -- well, I mean you said you  
20 know; you're working on it. The issue about the data and the  
21 older court files is just a problem, and you're going to keep  
22 working on it; right?

23 MR. CAREY: Well, we have to. And like I said, one  
24 of the --

25 THE COURT: Yeah.

1 MR. CAREY: You know, I've had maybe two meetings in  
2 the last week with the City Manager about how are we going to  
3 address this because the issue with the Watson case, I think,  
4 highlights the need for this to happen because if you have  
5 these cases kind of sitting out there and we aren't going  
6 through them earnestly to make sure that, you know, we try to  
7 apply this good-cause criteria to make sure we either dismiss  
8 it or keep prosecuting it, then the cases are in limbo and  
9 things like this tend to happen, and then you get media  
10 coverage, and then all of a sudden, it's blown out of  
11 proportion. So it's a pressing need, and it's definitely  
12 something that the City is aware of and wants to take  
13 immediate steps to try to remedy.

14 THE COURT: All right. Thank you.

15 MR. CAREY: Okay. Thank you.

16 THE COURT: Ms. Tidwell, I'll hear anything you wish  
17 to say on behalf of the Monitor, and I appreciate your being  
18 here today to fill in.

19 MS. TIDWELL: Thank you, Your Honor.

20 I just want to echo the comments of Mr. Volek and  
21 Mr. Carey that the intention is to move forward with the  
22 progress that was made in the first year of the monitorship,  
23 and one of the things that the team has prioritized moving  
24 forward is building off of some of the work and looking to  
25 create a realistic framework for the parties, the City in

1 particular, as to where we hope to go in year two and beyond.  
2 And so developing that strategic plan is one of the things  
3 that I'm hoping to start working towards in addition to taking  
4 the results of the audit conducted in August and incorporating  
5 that into a report to the Court in the next month or so. So  
6 those are the -- the most pressing things.

7 I am hoping that in year two -- I think Mr. Volek  
8 identified and talked about each of these topic areas. The  
9 parties had agreed on some priority areas for year one. You  
10 know, more progress has been made in some than in others,  
11 although substantial progress has been made in areas that  
12 weren't identified as priorities, like body-worn cameras, the  
13 School Resource Officer Program, the municipal code reform,  
14 and most significantly, municipal court reform. I'm hoping  
15 that even though -- in the areas that are not yet completed,  
16 where policy review hasn't been completed, that we can start  
17 doing some auditing in those areas just to get a baseline as  
18 to where things currently stand, with the police department in  
19 particular. So some of those areas include stop, searches,  
20 and arrests, just to look at reports and see how things are  
21 going now. And so when we start to develop policies and  
22 training, we know what are some of the areas and what are some  
23 of the knowledge gaps, what are some of the policy gaps, and  
24 so just took it as the Monitoring Team just looking at some of  
25 those reports that have been generated in the previous years

1 would be extremely helpful.

2           Similarly, with accountability, we can't know where  
3 we need to go with internal investigations until we look at  
4 how internal investigations were done in the past, and so  
5 that's an audit area, at least a baseline assessment area that  
6 I think the Monitoring Team can look at in year two and  
7 including use-of-force reporting. That's an area Mr. Volek  
8 spoke of that we're looking to develop policies in that area,  
9 but we can certainly take a look at the use-of-force reports  
10 as they exist now in the reporting requirements and the review  
11 process to, once again, help the City and the police  
12 department to build policies and build training that actually  
13 speaks to the needs that are already there.

14           Some of the work that we've done in this since the  
15 June status hearing include the police surveys. Some work was  
16 done by Delores Jones-Brown, one of the team members, to  
17 conduct or to implement or -- what's the right word for --  
18 give -- to administer a survey --

19           THE COURT: Administer the survey.

20           MS. TIDWELL: -- administer a survey for members of  
21 the FPD. I think she still has four or five officers who were  
22 on vacation during the August administration that she still  
23 needs to get to, but she plans to do that in the coming weeks,  
24 and so we would be able to report on the results of that  
25 survey at that time.

1           As the parties have identified, I was tasked mainly  
2 with the municipal court audit work in August. It began in  
3 the spring when the Monitoring Team gave the parties a  
4 methodology and a plan and a schedule for how audits would be  
5 conducted in the municipal court. Prior to my arrival in  
6 Ferguson in, I think, late August, around the 20th, I  
7 submitted a plan to the parties that identified the 20 or so  
8 provisions that would be audited in August and set out, you  
9 know, how I anticipated the City would demonstrate compliance  
10 or at least show the work that it has done towards compliance,  
11 and so the -- we divided the work into six categories.

12           There was document review, and those are the policies  
13 and procedures that Mr. Carey spoke about.

14           There was city ordinance review, which, you know, as  
15 the name suggests, just there were certain ordinances that the  
16 City was required to either rescind or amend as part of the  
17 Consent Decree, and most of that work, if not all of it, has  
18 been completed.

19           Database review. And I think everyone has spoken  
20 about the challenges that go into review of the ITI database.  
21 So some of that work, that audit work, has not been completed.  
22 There were some issues regarding making the ITI database  
23 available to the Monitoring Team. So we have to sort of iron  
24 out those issues.

25           Website review. Mr. Carey spoke about items being

1 posted. Mr. Volek spoke about, you know, some of the  
2 user-friendliness of the website. So I won't belabor that.

3 But the most significant parts of the audit, the most  
4 intensive were certainly case file review, which was actual  
5 identifying cases, particularly, under the amnesty provision  
6 of paragraph 326(d) of the Consent Decree that says if a  
7 defendant has paid certain amounts in fines and fees related  
8 to failure to appear those monies are to be deducted from his  
9 balance, his or her balance going forward, and the case either  
10 dismissed or the monies owed reduced.

11 And then some other cases were just dismissed because  
12 they were old, and, you know, we certainly had some discussion  
13 about old cases. You know, I'll follow up with that a little  
14 bit, but those were the kinds of cases that -- the case files  
15 that I reviewed.

16 So in advance of the audit, the Court Clerk has been  
17 extremely helpful in now she has identified a unique code for  
18 cases where FTA fines were paid, where failure-to-appear fines  
19 were paid.

20 THE COURT: Right.

21 MS. TIDWELL: So that the Monitoring Team can  
22 actually look at those and see that the cases have been  
23 dismissed or the fines reduced. And so she provided the list  
24 to us prior to my coming on-site to Ferguson, and under the  
25 auditing methodology, the Monitoring Team would review 10

1 percent of those cases, one out of every 10, randomly  
2 selected. So I provided her with a list of the case files to  
3 pull for me to look through, and I did that while we were in  
4 Ferguson.

5           There were substantial amounts of money that were  
6 dismissed or reduced during this past six-month period, and  
7 the cases that I reviewed indicate that, you know, people --  
8 cases have been dismissed altogether or fines have had  
9 significant reductions, but the issue remains that a lot --  
10 all -- some, if not all, of those cases are pre-January 2014  
11 and need to be assessed under the good-cause criteria that has  
12 been identified by the parties and that Mr. Goodman worked  
13 with the Monitoring Team to put into place.

14           The other part of the on-site review included  
15 observation of municipal court proceedings, and I would just  
16 like to echo what Mr. Volek mentioned that Judge Brown is just  
17 a breath of fresh air. Now, it could be -- I didn't monitor  
18 or observe any court hearings prior to his appointment to the  
19 bench here, so I may be grading on a curve, but I will say  
20 that his -- the empathy that he shows to individual  
21 litigants -- you know, he addresses everyone individually.  
22 They go up to the bench, so it's impossible to hear from the  
23 gallery exactly what's going on, but you can read on the faces  
24 of the people who appear before him that they feel respected,  
25 they feel heard, and they feel like he is really working

1 diligently to help them resolve their individual cases. So  
2 that was part of our observation.

3           Some of it went into the independence of the City  
4 Prosecutor. As Mr. Carey said, there are policies in place  
5 that require certain things from the City Prosecutor as to  
6 maintaining the Court's independence from him and his  
7 independence from the Court. Those provisions have been  
8 implemented. They're not all necessarily put into policy.

9           You know, where Mr. Carey spoke about the policy  
10 development, there are several areas where the Consent Decree  
11 says this policy is supposed to be developed and implemented  
12 in consultation with the Monitoring Team, and so the City has,  
13 to its credit, drafted some of these policies, some of  
14 which -- one of which was not due to be audited until February  
15 2018, but Mr. Carey was just, you know, so eager to get it  
16 done that he got it done early, but now the Monitoring Team  
17 needs to work with the City to sort of fine-tune those  
18 individual policies.

19           I think paragraph 353 is one. 341, which deals with  
20 the preset fine schedule -- I know that the City has adopted  
21 the County's fine schedule, but the Consent Decree  
22 specifically says that the fine schedule is to be adopted in  
23 consultation with the Monitor and with DOJ and that it's not  
24 only to be consistent with county-wide fines but also to  
25 reflect a consideration of the relative income level of

1 Ferguson residents. And, you know, there was a point made by  
2 the court personnel that people who are stopped coming in and  
3 through Ferguson aren't necessarily Ferguson residents, and so  
4 maybe the functionality of setting fine schedules to meet the  
5 income levels of Ferguson residents might not be practical,  
6 but as the Monitor, we're -- you know, the language of the  
7 Consent Decree says that this is what the fine schedule should  
8 include. So I would invite the parties, you know, for things  
9 like that just to talk those things through because  
10 certainly --

11 THE COURT: Right.

12 MS. TIDWELL: -- there are arguments to be made on  
13 both sides.

14 Paragraphs 333 and 334 which deal with the charging  
15 documents and citations -- and I should say, Your Honor, that  
16 prior to the audit, before my coming to Ferguson for the  
17 audit, the City could not have been more collaborative, more  
18 responsive to my questions in getting me documents in a timely  
19 manner. I know that Christine, the Court Clerk, did yeoman's  
20 work in getting case files pulled for me before I was there.  
21 Everything was ready for me when I got there. So kudos to  
22 them on that point, but I'm not here to be nice, so I have to  
23 say, you know, reflect what was there.

24 So some provisions, particularly, where the impact of  
25 the operating rule that Mr. Carey spoke of -- it is a

1 statewide rule that the court in Ferguson has adopted. We,  
2 the parties, the Monitoring Team and the parties, will need to  
3 discuss how that is -- how that applies to Ferguson  
4 specifically and to the provisions of the Consent Decree that  
5 the City identified the operating rule as covering because I  
6 think there's going to be some room. They need to -- there's  
7 going to be some gaps between what the state operating rule  
8 has and what the Consent Decree requires, but we can certainly  
9 work with them through that, and I think there's no doubt that  
10 we can get to where we need to be on those.

11 So I think that's -- you know, finally, I would say  
12 with regards to the good-cause criteria and the amnesty  
13 program, to me, that is the most pressing area within the  
14 court reform provision process. There are thousands of people  
15 who may or may -- may or may not still live in the area that  
16 have arrest warrants right now in the -- out of Ferguson, and  
17 it's an impediment to their job search, their living. You  
18 know, some of them could be living in constant fear that they  
19 could be picked up at any time.

20 When we were there at the court, observing the night  
21 court session, there were a substantial number of cases that  
22 were pre-January 1st, 2014. So people who had been arrested  
23 on warrants who were there in court to appear -- some of them  
24 pled guilty and agreed to do community service for their  
25 balance owed, but by right, these cases should have at least

1 been reviewed prior to the litigant coming to court,  
2 certainly, before they were arrested.

3           So I think that viewing these cases one by one as  
4 people come through the door is just not going to work. It  
5 shouldn't take someone being arrested on a case from 1998 or  
6 2004 for someone to look at their case to see if there's good  
7 cause to keep it open. It certainly shouldn't take someone  
8 appearing in the *New York Times* for the City to look at their  
9 case. So we really -- you know, I applaud Mr. Carey for  
10 trying to figure out how we're going to get this done, but we  
11 really need to get this done. I think at last count we were  
12 in, you know, the tens of thousands of cases that had open  
13 warrants. So I would hope and, certainly, the Monitoring Team  
14 is committed to working with the parties and the City to get  
15 that done.

16           And I'll conclude there unless Your Honor has some  
17 questions.

18           THE COURT: No. It's very helpful, and I do  
19 appreciate all the work you've done, especially on the  
20 municipal court audit work because that's one of the biggest  
21 areas where we need to -- where the Consent Decree requires a  
22 lot of changes, and so that's very important. So thank you.

23           MS. TIDWELL: Thank you, Your Honor.

24           THE COURT: Is there anything further from the  
25 Department of Justice, Mr. Volek?

1 MR. VOLEK: Nothing from us, Your Honor.

2 THE COURT: Mr. Carey, anything further from the  
3 City?

4 MR. CAREY: No, ma'am.

5 THE COURT: All right. Well, I will simply comment  
6 that I think this has been very informative. You've gone  
7 through a lot, and I think that you are making good progress.  
8 I know there's a frustration level sometimes because it's not  
9 all happening as quickly as everybody would like it to happen,  
10 but it's a lot of work, and the Department of Justice has said  
11 that they believe the City's working in good faith to meet all  
12 of these things. We appreciate the things that the City has  
13 done, and I think that -- you know, I think we -- we just need  
14 to keep doing this work. I mean you all. I say "we." That's  
15 a fairly -- you know, that's not so easy, is it, for me to  
16 say? Or it is easy for me to say, but, you know, you all need  
17 to keep doing the work you are doing, and I think progress is  
18 definitely being made. There are obvious steps that need to  
19 be taken, but I think that it is -- it is definitely moving in  
20 the right direction, and I do appreciate that.

21 I will consult with you all about setting the next  
22 quarterly hearing. It will be sometime in December. I will  
23 try, to the extent possible, to set it in conjunction with  
24 when you might be here for the municipal court proceedings or  
25 for other, you know, things where people will be here anyway,

1 and so I think that is a good way to do it, and I'll let you  
2 all know about that. And when I do set an order regarding the  
3 hearing, we'll put that on the website as well as sending it  
4 out publicly so it is available to the public. And then, of  
5 course, I appreciate the City putting it on their website as  
6 well so that people know when the hearing will be.

7 All right. With that said, I appreciate the  
8 progress. I want to thank the members of the City  
9 policymakers and employees who are here. I want to thank the  
10 Department of Justice for sticking to this. I do -- you know,  
11 I read something or I heard someone on the news in the last  
12 week or so saying the Department of Justice has indicated  
13 they're not going to push this as hard as they were, and  
14 that's just not true, and I wanted to make sure that everyone  
15 knew that Mr. Volek has assured me repeatedly that the  
16 Department of Justice is absolutely committed to this process  
17 just the same as they were when the Consent Decree was first  
18 entered, and I know the City is, and I believe the Monitoring  
19 Team is. So we have full commitment from everyone, and I  
20 think whoever said that on the news was just somebody talking,  
21 but that is something I think that everyone needs to  
22 understand that this is -- we are all fully committed to this  
23 process moving forward as it should.

24 Okay. Thank you, all, very much. Court's in recess.

25 (Proceedings concluded at 2:07 p.m.)

CERTIFICATE

I, Gayle D. Madden, Registered Diplomate Reporter and Certified Realtime Reporter, hereby certify that I am a duly appointed Official Court Reporter of the United States District Court for the Eastern District of Missouri.

I further certify that the foregoing is a true and accurate transcript of the proceedings held in the above-entitled case and that said transcript is a true and correct transcription of my stenographic notes.

I further certify that this transcript contains pages 1 through 47 inclusive.

Dated at St. Louis, Missouri, this 29th day of 2017,  
2017.

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/s/ Gayle D. Madden

GAYLE D. MADDEN, CSR, RDR, CRR

Official Court Reporter